

**FDOT Non-Motorized Traffic Monitoring Program
Continuous Counting Hardware (or Permanent Count)**

Memorandum of Agreement

This Memorandum of Agreement, hereinafter referred to as the "Agreement" is made and entered on the last date executed below, by and between the Florida Department of Transportation, an agency of the State of Florida, hereinafter referred to as the "Department", and the City of Key West, hereinafter referred to as the "Partnering Agency". The Department and the Partnering Agency are collectively referred to as the "Parties," each being a "Party."

RECITALS:

- A. WHEREAS, the Department developed a statewide Non-Motorized Traffic Monitoring Program (the "Program") with the purpose of collecting and maintaining a statistically valid bicycle and pedestrian volume data that would allow the Department to calculate the statistics for annual publication to serve all Department's data customers and partner agencies;
- B. WHEREAS, the data obtained from the Program may be used for various types of analyses such as planning, designing, and programming facilities, pavement, and trail maintenance, and as a result, the Department seeks to continue expanding said Program;
- C. WHEREAS, Partnering Agency benefits from the installation of a non-motorized continuous counter system in its vicinity and this would expedite the advancement of the Program;
- D. WHEREAS, Partnering Agency seeks and has agreed to participate in the Program by assuming certain responsibilities in the manner and to the extent set forth in this Agreement;
- E. WHEREAS, the Department is authorized under Section 334.044, Florida Statutes, to enter into contracts and agreements.

NOW, THEREFORE, in consideration of the mutual benefits contained in this Agreement, the parties agree as follows:

1. GENERAL PROVISIONS

- 1.1. The Department shall be responsible for administering all work performed under this Agreement and for complying with the terms of this Agreement. The Department may select any vendor with which it has established agreements or contracts and who is qualified and approved to perform the work described in this Agreement.
- 1.2. The Department will provide technical oversight to Partnering Agency, which may include but is not limited to, determining final site location for the project and advising in the selection of the equipment to be installed. Partnering Agency must provide a primary contact for the project to the Department upon signing this Agreement.

- 1.3. The Department will ensure the installation of the equipment is performed by the Department's selected vendor in accordance with the manufacturer's instructions and applicable federal and state guidelines.
- 1.4. The Parties agree that the provisions of this Agreement will be applicable to the extent the Parties pursue the installation of additional equipment, if any.
- 1.5. Any amendments to this Agreement or its terms will be agreed upon in writing by the Parties prior to being implemented. The Department may delegate the approval of these amendments to the Office Manager of the Department's Transportation Data and Analytics (TDA) Office.

2. SCOPE OF PROJECT

- 2.1. This partnership includes agreement upon distributed responsibilities with the Department and Partnering Agency. Partnering Agency will acquire the equipment, subject to Department's recommendations, and the Department will coordinate the installation of the equipment at the project site is located at **the Staples Bridge (24.559943, -81.772125)**. The equipment, during its Useful Life, will detect and record non-motorized traffic 24 hours a day, 365 days a year.

3. ROLES AND RESPONSIBILITIES

- 3.1. The Partnering Agency agrees to:
 - 3.1.1. Provide the equipment for the project, which consists of **infrared sensor, loops/piezo sensors, battery/solar panel power unit, gantry, pole, base, and cabinet**, valued at approximately \$15,000.00, hereinafter referred to as the "Counter System," and have it available on the project site for installation purposes within 270 days of execution of this Agreement.
 - 3.1.2. Locate Utilities, if necessary, for Counter System installation.
 - 3.1.3. Coordinate with the Department or with Department's selected vendor to schedule the date for Counter System installation.
 - 3.1.4. Approve Counter System installation location.
 - 3.1.5. Meet Department staff or Department's selected vendor staff on site during Counter System installation.
- 3.2. The Department agrees to:
 - 3.2.1. Conduct Counter System test prior to field deployment.
 - 3.2.2. Test for environmental interference with Counter System.
 - 3.2.3. Determine final Counter System location.
 - 3.2.4. Provide additional equipment needed for automatic polling, which consists of a **modem and antenna**.
 - 3.2.5. Provide Counter System installation through its selected vendor.
 - 3.2.6. Conduct site inspection and certification after installation.
 - 3.2.7. Provide routine Counter System maintenance which may include battery upkeep and replacement of Counter System parts such as solar panels, infrared sensor, piezoelectric sensors, batteries, etc.

4. USEFUL LIFE

- 4.1. The Useful Life of the Counter System is determined to be 3-5 years. This Agreement shall be for the length of the Useful Life.

5. MAINTENANCE

- 5.1. The Department and/or its agent, shall assume all maintenance responsibilities for the Counter System for its Useful Life.
- 5.2. Expected routine maintenance responsibilities may include battery replacement, removing obstructions or equipment hazards on or near the Counter System, and monitoring the security of the Counter System. Partnering Agency shall not perform any activities which may interfere with the Counter System's condition or functionality. Partnering Agency shall make its best efforts to ensure its agents, contractors, and subcontractors do not perform activities which may interfere with the Counter System's condition or functionality.
- 5.3. The Department will continue to provide Partnering Agency access to the data collected by the Counter System during its Useful Life. This data will continue to be subject to the Department's formats and standards as defined by the Program.

6. TERMINATION

- 6.1. This Agreement is meant to work as an equal partnership and as such, both the Department and Partnering Agency are expected to comply with all the provisions of this Agreement. If at any time either Party demonstrates a material breach with the provisions on this Agreement, it may be terminated if the breaching party does not come into compliance within thirty (30) calendar days of the event causing the breach.
- 6.2. Either Party may unilaterally terminate this Agreement with a 30-day written notice of intent to terminate. In the event of termination, the Partnering Agency will receive all data collected up to the day of termination.

7. CHOICE OF LAW

- 7.1. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any action arising out of this Agreement shall be in Monroe County, Florida.

8. INDEMNIFICATION

- 8.1. Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes. Further, nothing herein shall be construed as consent by the Partnering Agency or the Department to be sued by third parties in any matter arising out of any contract or this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date(s) below:

City of Key West.

SIGNED BY: _____

TITLE: City Manager _____

DATE: _____

FLORIDA DEPARTMENT OF TRANSPORTATION

SIGNED BY: _____

TITLE: Transportation Data and Analytics Office Manager _____

DATE: _____

Legal Review: _____